

# **EXHIBIT E**

**From:** [Keith Mathews, Esq.](#)  
**To:** [Brass, Rachel S.](#)  
**Subject:** Re: Default  
**Date:** Wednesday, August 18, 2021 12:04:01 PM

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[WARNING: External Email]

Rachel,

Respectfully we disagree on your analysis. The clerks office is available today and has been open all week. Rule 6(a)(3)(A) is only applicable if clerks office is closed or unavailable for any other reason (natural disaster etc.) which is not the case here. Therefore it is my client's position that Apple is in default unless you can point me to a filing that has been served by your office.

My client, given that no appearance had yet been filed in this case believed that they should communicate with you directly.

Regards,

Keith

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On 8/16/2021 9:08 PM, Brass, Rachel S. wrote:

Dear Mr. Mathews,

We have received the emails below from [coronavirusreporter@protonmail.com](mailto:coronavirusreporter@protonmail.com). I am not certain if those two messages are from you. To the extent that our request relates to Primary Productions, and not the Coronavirus Reporter case, we suspect they are not from you. And we also believe they may not be from you because of your earlier correspondence, which noted that because the matter is not yet on Pacer, "an extension request is premature." While we think that a failure to agree is regrettable and inconsistent with the order granting our requested extension in the *Coronavirus Reporter* case, your earlier email

was correct—under Federal Rule of Civil Procedure 6(a)(3)(A), Apple’s response date is extended until the first day ECF is accessible. For that reason and others, any default would be baseless, an undue burden on the Court, and inconsistent with the Northern District’s professionalism guidelines.

In any event, for avoidance of doubt, we intend to communicate only with you, not with any client you represent. We will not engage directly with any represented party.

Best,  
Rachel

**Rachel S. Brass**  
**Partner**

## GIBSON DUNN

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**From:** [coronavirusreporter@protonmail.com](mailto:coronavirusreporter@protonmail.com) <[coronavirusreporter@protonmail.com](mailto:coronavirusreporter@protonmail.com)>  
**Sent:** Monday, August 16, 2021 3:34 PM  
**To:** Brass, Rachel S. <[RBrass@gibsondunn.com](mailto:RBrass@gibsondunn.com)>; [keith@aaone.law](mailto:keith@aaone.law)  
**Subject:** Re: Default

**[WARNING: External Email]**

Pls Serve answer on counsel even if ECF not ready

Sent from [ProtonMail](#), Swiss-based encrypted email.

----- Original Message -----

On Monday, August 16th, 2021 at 6:31 PM, <[coronavirusreporter@protonmail.com](mailto:coronavirusreporter@protonmail.com)> wrote:

Primary Productions expects an answer today and considers a lack thereof a default.  
Absolutely no extensions of time per client.

Sent from [ProtonMail](#), Swiss-based encrypted email.

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